

CHAPTER NO. 127

HOUSE BILL NO. 4090

By Representative Fraley

Substituted for: Senate Bill No. 4024

By Senator Cooper

AN ACT to amend Chapter 236 of the Private Acts of 1925; as amended and rewritten by Chapter 100 of the Private Acts of 1967; Chapter 51 of the Private Acts of 1969; Chapter 65 of the Private Acts of 1977; Chapter 31 of the Private Acts of 1989 and Chapter 120 of the Private Acts of 2000; and any other acts amendatory thereto, relative to the Charter of the City of Cowan.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Chapter 236 of the Private Acts of 1925; as amended and rewritten by Chapter 100 of the Private Acts of 1967; Chapter 51 of the Private Acts of 1969; Chapter 65 of the Private Acts of 1977; Chapter 31 of the Private Acts of 1989 and Chapter 120 of the Private Acts of 2000; and any other acts amendatory thereto, is amended by deleting such chapter, as amended, in its entirety and by substituting instead the following language to be the charter of the City of Cowan:

ARTICLE I

CHARTER DEFINITIONS, CITY LIMITS, AND CORPORATE POWERS

SECTION 1.01. Act constitutes city charter. The City of Cowan, Tennessee, shall continue as a body politic and corporate by the name and style of Cowan, Tennessee, and this act shall constitute its complete charter. The City of Cowan shall have perpetual succession, may sue and be sued, plead and be impleaded, in all the courts of law and equity, and in all actions whatsoever, and may have and use a common seal and change it at pleasure.

SECTION 1.02. Definitions. As used in this charter, unless the context otherwise requires:

(1) "At large" means the entire city;

(2) "City" or "Municipality" means the City of Cowan;

(3) "Code" means any publication or compilation of rules, regulations, specifications, standards, limitations, or requirements relating to any aspect of municipal affairs, prepared or recommended by an agency of the federal or state government, or by a trade association or other organization generally recognized as an authority in its field of activity;

(4) "Council" and "City Council" mean the legislative body of the city, which shall be composed of the mayor and five (5) councilmen elected as provided in this charter;

(5) "Councilman" and "Member of Council" mean a person elected to the office of councilman as provided in this charter, and shall include the mayor;

(6) "Elector" means a qualified voter residing within the city; and a registered owner of real estate situated within the city, or a non-resident who owns property in the city and is otherwise qualified to vote;

(7) "Nonpartisan" means without any designation of candidates as members or candidates of any state or national political party or organization; and

(8) The masculine shall include the feminine, and the singular shall include the plural and vice-versa, except when the contrary intention is manifest.

SECTION 1.03.

(1) City limits. The boundaries of the city are as follows:

Beginning on telephone pole No. 87-16 (mile 88) on the east side of the Louisville and Nashville Railroad Company right of way at a point 30 feet from the center of the main line of said railroad, and running north 13° west, crossing Boiling Fork Creek, 2,836 feet to a stake; thence north 50½°, east 896 feet to a stake in the center of the road near the Montgomery (Cowan Cemetery) Cemetery gate; thence with the old road north ½° west, 1,022 ½ feet to the south margin of the right of way of U.S. Highway 64-41A; thence with the south margin of the right of way of said highway seven (7) courses as follows: north 69½° east 275½ feet, north 72½° east 100 feet, north 75½° east 100 feet, north 78° east 100 feet, north 81° east 100 feet, north 83¼° east 100 feet, north 88 ¼° east 183½ feet to a stake in the said south margin line of said highway opposite McAmis' road; thence north ½° west 405 feet to a stake in the west side of McAmis road; thence southwest in a straight line to the northeast corner of the Cumberland Heights Subdivision; thence south 89¾° west 1,503 feet to the northeast corner of said subdivision, Elliott's east line; thence south with Elliott's east line to a point north of Wilson Street; thence north 89½° west and parallel with Wilson Street to a stake in the branch at the old Greenhaw Road; thence with said branch south 2½° west 600 feet to Bill Garner's northwest corner; thence with and along said

branch south 1,258 feet to a stake on the east margin of the Louisville and Nashville Railroad tracks; thence south $13\frac{1}{4}^{\circ}$ east crossing said railroad 184 feet to stake on the west side of the tracks; thence with the right of way line northwest 500 feet to an oak at Will Steele's gate; thence in a straight line to Henderson's line and the center of a lane which point is 980 feet north 2° east from the north margin of U.S. Highway 64-41A; thence south 2° west with the center of said lane 980 feet to the north margin of the right of way line of U.S. Highway 64-41A; thence west with the north margin line of U.S. Highway 64-41A to the southwest corner of the property of Arthur F. O'Keefe where Rolling Acres Motel is situated, and running thence north $6^{\circ} 21'$ east a distance of 325 feet to a metal stake; thence south $83^{\circ} 39'$ east 845.6 feet to a metal stake; thence south $6^{\circ} 21'$ west 325 feet to a metal stake set in the north margin line of U.S. Highway 64-41A right of way; thence south across the entire right of way of said highway to the south margin line of said highway; thence along and with the south margin of U.S. Highway 64-41A to the northwest corner of the property of Hughes H. Brewer; thence south $2^{\circ} 14'$ east 775.85 feet to a stake; thence north $88^{\circ} 44'$ east 440 feet to a stake; thence north $2^{\circ} 14'$ west 475.85 feet to a stake; thence south $88^{\circ} 44'$ west 340 feet; thence north $2^{\circ} 23'$ east to the south margin of the right of way line of U.S. Highway 64-41A; thence with the south margin line of said highway in an easterly direction to the west margin of a road, the northeast corner of the Williford property; thence with the west margin of said road south 3° west 650 feet to the old Cowan-Winchester Road; thence south 87° east with said old road 1,500 feet to the northeast corner of the City of Cowan property and the east line of S. T. Nichols' lot; thence with the west line of S. T. Nichols' property to the south bank of Boiling Fork Creek; thence up said creek with its meanders to the east margin of the right of way line of Louisville and Nashville Railroad; thence south 54° east with the east margin line of said railroad 1,130 feet to the beginning.

SECTION 1.04. Corporate powers. The city shall have powers to:

- (1) Assess, levy and collect taxes for all general and special purposes on all subjects or objects of taxation, and privileges taxable by law for state, county or municipal purposes;
- (2) Adopt classifications of the subjects and objects of taxation that are not contrary to law;
- (3) Make special assessments for local improvements;

(4) Contract and be contracted with;

(5) Incur debts by borrowing money or otherwise, and give any appropriate evidence thereof, in the manner hereinafter provided;

(6) Issue and give, sell, pledge or in any manner dispose of, negotiable or nonnegotiable interest-bearing or noninterest-bearing bonds in accordance with Tennessee Code Annotated, Title 9, Chapter 21, warrants, promissory notes or orders of the municipality, upon the credit of the municipality or solely upon the credit of specific property owned by the municipality or solely upon the credit of income derived from any property used in connection with any public utility owned or operated by the municipality, or solely upon the credit of the proceeds of special assessments for local improvements, or upon any two (2) or more such credits;

(7) Expend the money of the municipality for all lawful purposes;

(8) Acquire or receive and hold, maintain, improve, sell, lease, mortgage, pledge or otherwise dispose of property, real or personal, and any estate or interest therein, within or without the municipality or state;

(9) Condemn property, real or personal, or any easement, interest, or estate or use therein, either within or without the municipality, for present or future public use; the condemnation shall be effected in accordance with the terms and provisions of Tennessee Code Annotated, Title 29, Chapter 16, or in any other manner provided by law;

(10) Take and hold property within or without the municipality or state upon trust; and administer trusts for the public benefit;

(11) Acquire, construct, own, operate, and maintain, or sell, lease, mortgage, pledge or otherwise dispose of public utilities or any estate or interest therein, or any other utility of service to the municipality, its inhabitants, or any part thereof, and, further, may issue debt for these purposes in accordance with Tennessee Code Annotated, Title 9, Chapter 21;

(12) Grant to any person, firm, association or corporation (including the municipality) franchises for public utilities and public services to be furnished the municipality and those therein. The power to grant franchises embraces the power to grant exclusive franchises. Whenever an exclusive franchise is granted, it shall be exclusive not only as against any other person, firm, association, or corporation, but also against the municipality itself. Franchises may be granted for a period of twenty-five (25) years

or less, but not longer. The board may prescribe in each grant of a franchise, the rate, fares, charges and regulations that may be made by the grantee of the franchise in accordance with state and federal law. Franchises may by their terms apply to the territory within the corporate limits of the municipality at the date of the franchises, and as the corporate limits may be enlarged, and to the existing streets, alleys and thoroughfares that thereafter may be opened;

(13) Make contracts with any person, firm, association or corporation for public utilities, public services to be furnished the municipality and those therein. The power to make contracts embraces the power to make exclusive contracts. When an exclusive contract is entered into, it shall be exclusive against any other person, firm, association or corporation. These contracts may be entered into for a period of twenty-five (25) years or less, but not longer. The board may prescribe in each such contract entered into, the rates, fares, charges, and regulations that may be made by the person, firm, association or corporation with whom the contract is made. Such contracts may by their terms apply to the territory within the corporate limits of the municipality at the date of the contract, and as the corporate limits may be enlarged, and to the then existing streets, alleys and thoroughfares and to any other streets, alleys and other thoroughfares that thereafter may be opened;

(14) Prescribe reasonable regulations regarding the construction, maintenance, equipment, operation and service of public utilities, compel reasonable extensions of facilities for these services, and assess fees for the use of or impact upon these services. Nothing herein shall be construed to permit the alteration or impairment of any of the terms or provisions of any exclusive franchise granted or of any exclusive contract entered into under subdivisions (12) and (13);

(15) Establish, open, relocate, vacate, alter, widen, extend, grade, improve, repair, construct, reconstruct, maintain, light, sprinkle, and clean public highways, streets, boulevards, parkways, sidewalks, alleys, parks, public grounds, public facilities, libraries and squares, wharves, bridges, viaducts, subways, tunnels, sewers, and drains within or without the corporate limits, regulate their use within the corporate limits, assess fees for the use of or impact fees and adequate facility taxes upon such property and facilities, and take and appropriate property therefore under the provisions of Tennessee Code Annotated, Sections 7-31-107 through 7-31-111, and Section 29-16-114, or any other manner provided by general laws;

(16) Construct, improve, reconstruct and reimprove by opening, extending, widening, grading, curbing, guttering, paving, graveling, macadamizing, draining or otherwise improving any

streets, highways, avenues, alleys, or other public places within the corporate limits, and assess a portion of the cost of these improvements on the property abutting on or adjacent to these streets, highways, or alleys under, and as provided in Tennessee Code Annotated, Title 7, Chapters 32 and 33;

(17) Assess against abutting property within the corporate limits the cost of planting shade trees, removing from sidewalks all accumulations of snow, ice, and earth, cutting and removing obnoxious weeds and rubbish, street lighting, street sweeping, street sprinkling, street flushing, and street oiling, the cleaning and rendering sanitary or removal, abolishing, and prohibiting of closets and privies, in such manner as may be provided by general law or by ordinance of the board;

(18) Acquire, purchase, provide for, construct, regulate and maintain, and do all things relating to all marketplaces, public buildings, bridges, sewers and other structures, works and improvements;

(19) Collect and dispose of drainage, sewage, ashes, garbage, refuse, or other waste, or license and regulate their collection and disposal, and the cost of collection, regulation, or disposal may be funded by taxation, special assessment to the property owner, user fees, or other charges;

(20) License and regulate all persons, firms, corporations, companies, and associations engaged in any business, occupation, calling, profession, or trade not prohibited by law;

(21) Impose a license tax upon any animal, thing, business, vocation, pursuit, privilege, or calling not prohibited by law;

(22) Define, prohibit, abate, suppress, prevent, and regulate all acts, practices, conduct, business, occupations, callings, trades, use of property, and all other things whatsoever detrimental, or liable to be detrimental, to the health, morals, comfort, safety, convenience, or welfare of the inhabitants of the municipality, and exercise general police powers;

(23) Prescribe limits within which business occupations and practices liable to be nuisances or detrimental to the health, morals, security, or general welfare of the people may lawfully be established, conducted, or maintained;

(24) Inspect, test, measure, and weigh any article for consumption or use within the municipality, and charge reasonable fees therefore, and provide standards of weights, tests, and measures in such manner or way as provided by general law;

(25) Regulate the location, bulk, occupancy, area, lot, location, height, construction, and materials of all buildings and structures in accordance with general law, and inspect all buildings, lands, and places as to their condition for health, cleanliness, and safety, and when necessary, prevent their use and require any alteration or changes necessary to make them healthful, clean or safe;

(26) Provide and maintain charitable, educational, recreative, curative, corrective, detentive, or penal institutions, departments, functions, facilities, instrumentalities, conveniences, and services;

(27) Purchase or construct, maintain, and establish a correctional facility for the confinement and detention of persons who violate laws within the corporate limits of the municipality, or contract with the county to keep these persons in the correctional facility of the county;

(28)

(A) Enforce any ordinance, rule, or regulation by fines, forfeitures, and penalties, and by other actions or proceedings in any court of competent jurisdiction; and

(B) Provide by ordinance for court costs;

(29) Establish schools, determine the necessary boards, officers, and teachers required therefor, and fix their compensation, purchase, or otherwise acquire land for or assess a fee for use of, or impact upon, schoolhouses, playgrounds and other purposes connected with the schools, purchase or erect all necessary buildings, and do all other acts necessary to establish, maintain, and operate a complete educational system within the municipality;

(30) Regulate, tax, license, or suppress the keeping or going at large of animals within the municipality, impound them, and in default of redemption, sell or kill them;

(31) Call elections as herein provided; and

(32) Have and exercise all powers that now or hereafter it would be competent for this charter specifically to enumerate, as fully and completely as though these powers were specifically enumerated herein.

ARTICLE II CITY COUNCIL

SECTION 2.01. Election of mayor and councilmen. The mayor and five (5) councilmen shall be elected in a nonpartisan municipal election conducted by the Franklin County Election Commission, at the same hours and places for holding general elections and under the general election laws of the state, as follows:

(a) On the first Thursday in August 2007, and every four (4) years thereafter, two (2) council members shall be elected at large to fill the seats formerly held by council members representing wards 1 and 3.

(b) A municipal election shall be held on the first Thursday in August 2009, and every four (4) years thereafter, to elect three (3) council members at large to fill the seats formerly held by council members representing wards 2 and 4.

(c) At the municipal election of August 2009, and every four (4) years thereafter, a mayor shall be elected at large. Any elector who has been a resident of the city for at least two (2) years may be qualified as a candidate by a nominating petition submitted to the Franklin County Election Commission at such time and manner as determined by the general laws of the state of Tennessee.

(d) The nominating petition shall be prepared in substantially the following form:

We, the undersigned electors of the City of Cowan, Tennessee, hereby nominate _____ whose residence is in the City of Cowan, for the office of councilman (mayor), to be voted for at the election to be held on the ____ day of _____, 20____; and we individually certify that we are registered voters.

Name	Address	Date
of Signing.		

(e) Persons nominated may withdraw their nominations by written notice to the Franklin County Election Commission, not later than twenty-five (25) days before the election. Names of candidates shall be listed alphabetically on the ballot; the residence addresses of the candidates having the same or substantially the same or similar surnames shall also be printed on the ballot.

(f) Each elector shall be entitled to vote for two (2) candidates for councilman in the August 2007 municipal election and three (3) candidates for councilman and one (1) candidate for mayor in the August 2009 election.

(g) Commencement of Terms. The terms of office of mayor and all councilmen shall commence at 12:01 P.M. on the first day of September next following their election, and they shall serve until their successors have been elected and qualified. No informality shall invalidate such an election; provided, it is conducted fairly and in substantial conformity with the requirements of this charter and the general election laws of the state.

SECTION 2.02. Restrictions on candidates and their supporters. Giving or promising to any person or persons any office, employment, money, benefit, or anything of value, by or on behalf of any candidate, shall be deemed to be a violation of Tennessee Code Annotated, Title 2, Chapter 19, Part 1, and any person convicted thereof shall be ineligible to hold an office or position of employment in the city government for a period of five (5) years.

SECTION 2.03. City council.

(a) The mayor and five (5) councilmen elected under this charter shall comprise the city council, in which is vested all corporate, legislative, and other powers of the city, except as otherwise provided in this charter.

(b) The salary of the mayor shall be three hundred dollars (\$300) per month, and each councilman's salary shall be one hundred fifty dollars (\$150) per month.

(c) The council shall meet regularly at least once every month at the city hall or municipal building, or at such other place and time as may be prescribed by ordinance. The council shall meet in special session on written notice of the mayor or any two (2) councilmen and served on the other members of council personally at least 12 hours in advance of the meeting. Only the business stated in the written call may be transacted at a special meeting. Informal meetings or work sessions of the council may be held for the purpose of fact finding and conducting inspections; however, there shall be no official action taken by the council in such meetings. The council shall exercise its powers only in public meetings.

(d) A majority of the council shall constitute a quorum, and the presence of the mayor and three (3) councilmen, and in the absence of the mayor, the presence of the vice-mayor and two (2) councilmen shall constitute a majority. The council may by ordinance adopt rules and by-laws to govern the conduct of its business, including procedures and penalties for compelling the attendance of absent members. The council may subpoena and examine witnesses and order the production of books and papers.

SECTION 2.04. Mayor as presiding officer. The mayor shall preside at meetings of the council, and shall not have a vote on any matter, except in case of a tie when only four (4) councilmen are present at a meeting. He shall be recognized as the ceremonial head of the city. He shall be the officer to accept process, and upon whom process against the city shall be served. He shall perform other duties prescribed by this charter and by ordinances not inconsistent with this charter.

SECTION 2.05. Vice-mayor. The council, at the first regular meeting after the newly elected councilmen have taken office following each biennial election, shall elect from its membership a vice-mayor for a term of two (2) years and who shall have a vote on all questions proposed at any meeting. The vice-mayor shall perform the duties of the mayor during his absence or inability to act, and shall fill out any expired term in the office of mayor, in which case a councilman shall be elected by majority vote of the council to serve as vice-mayor.

SECTION 2.06.

(a) Vacancy in office of mayor or councilman. A vacancy shall exist if the mayor or a councilman resigns, dies, moves his residence from the city, is convicted of malfeasance or misfeasance in office, a felony, a violation of this charter or election laws of the state, or a crime involving moral turpitude, fails to attend any meeting of the council for a period of ninety (90) days with no extenuating circumstances, or has been continuously disabled for a period of six (6) months so as to prevent him from discharging the duties of his office. The council by resolution shall declare a vacancy to exist for any of these reasons, and such finding shall be final.

(b) In the event of a vacancy in the office of mayor, the council shall appoint a councilman to serve as mayor until the next regular municipal election. The council shall fill vacancies in the office of councilman by affirmative vote of a majority of the remaining members, but any portion of an unexpired four-year term for councilman or mayor that remains beyond the next municipal election shall be filled by the voters at that election, if the vacancy occurs at least twenty (20) days before the latest time for filing nominating petitions for candidates in that election.

(c) All such elections by the council shall be made by voice vote, on the calling of the roll. If a tie vote occurs in filling a vacancy on the council, the presiding officer shall vote to break the tie.

(d) Any person convicted of malfeasance or misfeasance in office, a felony, or a crime involving moral turpitude shall be prohibited from holding office of employment with the city for a period of ten (10) years thereafter.

SECTION 2.07. Restrictions on councilmen. The council shall act in all matters as a body, and no member shall seek individually to influence the official acts of the mayor or any other officer or employee of the city, or to direct or request the appointment of any person to, or his removal from, any office or position of employment, or to interfere in any way with the performance of duties by the mayor or any other officer or employee. The council shall deal with the various agencies, officers, and employees of the city, except boards or commissions authorized by this charter, solely through the mayor, and shall not give orders to any subordinates of the mayor, either publicly or privately. Nothing herein shall prevent the council from conducting such inquiries into the operation of the city government and the conduct of the city's affairs as it may deem necessary. The office of any councilman violating any provision of this section shall immediately become vacant upon his conviction in a court of competent jurisdiction.

SECTION 2.08. Designation of official newspaper. The council by motion shall designate from time to time a newspaper of general circulation in Franklin County, Tennessee, as the newspaper for publication of official notices of the city.

SECTION 2.09. City legislation.

(a) Any action of council having a regulatory or penal effect, relating to revenue or appropriation of money, awarding franchises or contracts over five thousand dollars (\$5,000), conveying or leasing or authorizing conveyance or lease of any lands of the city, or required to be done by ordinance under this charter or the general laws of the state, shall be done only by ordinance. Other actions of council may be accomplished by resolutions or motions. Ordinances and resolutions shall be in written form before being introduced. The enacting clause of ordinances shall be "Be It Ordained by the Council of the City of Cowan:". No action of council shall be valid or binding unless approved by the affirmative vote of at least three (3) members of council. Any ordinance which repeals or amends existing ordinances shall set forth at length the sections or subsections repealed or as amended. Every ordinance except an emergency ordinance must be approved on three readings not less than one (1) week apart and shall become effective when adopted upon third and final reading unless its terms provide a later effective date. Every ordinance, except codes adopted by reference as provided in subsection (c) below, shall be read in full on the first reading; the second and third readings may be by title only except that any amended provisions shall be read in full. Each resolution shall be read in full one time and shall become effective when adopted unless its terms provide otherwise. To meet a public emergency affecting life, health, or property, an emergency ordinance may be adopted on two readings on separate days and become effective immediately, by the affirmative votes of four (4) members of council, if the ordinance contains a full statement of

the facts creating the emergency, but any emergency ordinance shall be effective for only ninety (90) days. Appropriations, revenues, franchises, contracts, levy of taxes, or special privileges shall not be passed as emergency ordinances.

(b) The council shall have the general and continuing ordinances of the city assembled and copied in a well-bound book or loose leaf filler book, a copy of which shall be kept currently up to date by the city recorder and shall be available to the public.

(c) The council may have the general and continuing ordinances of the city assembled into an official code of the city, a copy of which shall be kept up to date by the city recorder and shall be available to the public. After adoption of the city code all ordinances shall be adopted as additions to, deletions from, or amendments to the code.

(d) Standard codes may be adopted by ordinances which contain only references to titles, dates, issuing organizations, and such changes to the standard codes as the council may deem desirable. Procedures prescribed by general law shall be followed when adopting such standard codes. Copies of the official code and any standard codes so adopted by reference shall be available to the public at prices fixed by the council.

(e) The original copies of ordinances, resolutions, contracts, and other documents shall be filed and preserved by the city recorder.

SECTION 2.10. Contributions, donations to non-profit organizations. The council is authorized to appropriate public funds for contributions or donations to non-profit organizations, in accordance with the general laws of the state of Tennessee. The council is prohibited from appropriating public funds for private for-profit organizations.

ARTICLE III ORGANIZATION AND PERSONNEL

SECTION 3.01. Organization of city government. The city government shall be organized into departments of records, finance, police, fire, and of public works and utilities, unless otherwise provided by ordinance. The council shall determine, by ordinance, the functions and duties of all departments and offices. The council, by ordinance, may establish, abolish, merge, or consolidate offices, positions of employment, departments, and agencies of the city, may provide that the same person shall fill any number of offices and positions of employment, and may transfer or change the functions and duties of offices, positions of employment, departments, and agencies of the city, subject to the following limitations:

(a) The number of members and the authority of the council, as provided in this charter, shall not be changed.

(b) All officers and employees of the city, except as otherwise specifically provided in this charter, shall be appointed and removed by the mayor but only with the approval of the majority of the council voting upon such appointment or removal, and such employees shall be under the direction and control of the mayor.

(c) The office of mayor shall not be abolished, nor shall his powers, as provided in this charter, be reduced.

SECTION 3.02. Administrative duties of mayor. The mayor shall be the executive head of the city government, responsible for the efficient and orderly administration of the affairs of the city. He shall be responsible for the enforcement of laws, rules and regulations, ordinances, and franchises of the city, and the city attorney shall take such legal actions as the mayor may direct for such purposes. He may conduct inquiries and investigations into the affairs of the city and shall have such other powers and duties as may be provided by ordinance not inconsistent with this charter.

SECTION 3.03. City attorney. The council shall appoint a city attorney, and such assistant city attorneys as may be authorized by ordinance. The city attorney, or an assistant city attorney designated by him, shall be responsible for representing and defending the city in all litigation in which the city is a party; attending all meetings of the council; advising the council, mayor, and other officers and employees of the city concerning legal aspects of their duties and responsibilities; approving as to form and legality all contracts, deeds, bonds, ordinances, resolutions, motions, and other official documents; and performing such other duties as may be prescribed by the council.

SECTION 3.04. Department of Records. The city recorder shall be the director of the department of records.

(a) Appointment. The mayor, with the approval of a majority of the council, shall appoint a city recorder, who also may be appointed to the positions of finance director or treasurer, or both. The recorder may also serve as city judge, provided, the recorder was serving as city judge on March 1, 2005, and has continued to serve uninterrupted since that date, as provided by the Municipal Court Reform Act of 2004.

(b) Recorder's functions at board meetings. The city recorder, or his designee, shall be present at all meetings of the council and keep a full and accurate record of all business transacted by the council to be preserved in permanent form.

(c) Custody of official records. The city recorder, or his designee, shall have custody of, and preserve in the recorder's office the city seal, the public records, original rolls of ordinance, ordinance books, minutes of the board, contracts, bonds, title deeds, certificates, and papers, all official indemnity or security bonds (except the recorder's bond, which shall be in the custody of the mayor), and all other bonds, oaths, and affirmations and all other records, papers, and documents not required by this charter or by ordinance to be deposited elsewhere, and register them by numbers, dates, and contents, and keep an accurate and modern index thereof.

(d) Ownership of records. All such records shall be the property of the City of Cowan.

(e) Copies of records and ordinances.

(1) The city recorder shall provide, copy, and, when required by any officer or person, certify copies or records, papers, and documents in his office; and

(2) Fees for copying and certification shall be charged as established by ordinance.

SECTION 3.05. City judge--city court.

(a) There shall be a city court presided over by a city judge appointed by the council.

(b)

(1) The city judge shall have the qualifications, term of office, if any, and receive the compensation the board may provide by ordinance.

(2) In the absence or disability of the city judge, the mayor may designate a qualified person to serve as city judge to be the acting city judge until one can be appointed at the next regularly scheduled meeting of the council, or as otherwise provided by ordinance.

(c) Powers to enforce ordinances.

(1) The city judge may impose fines, costs, and forfeitures, and punish by fine for violation of city ordinances;

(2) The city judge may preserve and enforce order in the court and enforce the collection of all fines, costs, and forfeitures imposed; and

(3) The city judge may remit, with or without condition, fines and costs imposed for violation of any ordinance provision.

(d) Fines and costs. Receipts of the city court shall be deposited daily with the city treasurer, and the city judge shall make monthly reports thereof to the council.

(e) The city judge shall keep a docket of all cases handled by him.

(f) The city judge shall be exclusive judge of the law and the facts in every case before him, and no officer or employee of the city shall attempt to influence his decision except through pertinent facts presented in open court.

SECTION 3.06. Officers and employees. Offices and positions of employment shall be filled from time to time as the council shall determine the same to be necessary. Salaries, wages, and remuneration for all positions shall be in accordance with motion duly made and adopted by majority vote. In determining salaries, wages, and remuneration, due consideration shall be given to duties, responsibilities, technical knowledge and skill and education required to satisfactorily perform the work, and the availability of persons having the qualifications desired.

SECTION 3.07. Personnel actions. The appointment and promotion of employees of the city shall be on the basis of merit, considering technical knowledge and education required to perform satisfactorily the work, experience in the particular or similar line of work, and administrative or supervisory qualifications. Unless otherwise provided by this charter, the mayor shall, with the approval of a majority of the council, make appointments, promotions, transfers, demotions, suspensions, and removal of employees. The mayor may, without the approval of the council, for reasonable cause, suspend any employee. Upon suspension of an employee by the mayor, he shall call a meeting of the council within ten (10) days of such suspension and present the matter of the suspension to the council. The council shall make such investigation of the suspension as it may choose, and then by affirmative vote of a majority of the council revoke the suspension and reinstate the employee, set a definite period of suspension, or dismiss the employee. The council shall also by a majority vote decide whether or not an employee shall receive compensation during any period of suspension. If an employee is dismissed, he shall receive only such compensation as was due him through the last day he worked for the city.

SECTION 3.08. Personnel rules. The council shall, by ordinance, adopt personnel rules and regulations governing personnel administration by the city, not inconsistent with the provisions of this charter.

SECTION 3.09. Oath of office. Before a person takes any office in the city government, he shall subscribe to the following oath or

affirmation, administered by the city recorder or any judge or official authorized by general law to administer oaths:

"I solemnly swear (or affirm) that I will support the constitution and will obey the laws of the United States and the State of Tennessee, that I will, in all respects observe the provisions of the charter and ordinances of the City of Cowan, and that I will faithfully discharge the duties of the office of _____."

SECTION 3.10. Official bonds. The mayor and every officer, agent, and employee of the city having duties embracing the receipt, disbursement, custody, or handling of money, and other officers and employees designated by council, shall give a fidelity bond or faithful performance bond, as determined by council, with some surety company authorized to do business in the state of Tennessee as surety, in such amount as shall be prescribed by council. All such bonds and sureties thereto shall be subject to approval by the council. The cost of such bonds shall be paid by the city. Such bonds shall be blanket bonds covering offices and positions to be bonded, and individual bonds may be secured only when blanket bonds are not obtainable.

SECTION 3.11. Political activity prohibited. No person shall directly or indirectly give, render, or pay any money, service, or other valuable consideration to any person for, or on account of, or in connection with, employment by the city government. No person shall orally, by letter or otherwise solicit or be in any manner concerned in soliciting any assessment, subscription, or contribution from any employee of the city in connection with any city election. An officer or employee of the city, other than the mayor or a member of the council, shall not make any contribution to the campaign funds of any candidate in any city election. Any person who by himself or with others willfully or corruptly violates any provision of this section shall be guilty of a misdemeanor, punishable in accordance with the general laws of Tennessee.

SECTION 3.12. Personal financial interest. Officers or employees of the city shall not profit personally, directly or indirectly, from any business transacted with the city government, nor shall any officer or employee accept any free or preferred service, benefits, or concessions from any person, company, or firm regulated by or doing business with the city.

ARTICLE IV FISCAL ADMINISTRATION

SECTION 4.01. Fiscal year. The fiscal year of the city government shall begin on the first day of July of each year and end on the last day of June of each year. The fiscal year of all boards, commissions, branches, or other divisions of the city government shall begin and end as the council may provide by ordinance, and if no such

ordinance is passed by the council, the same shall be commensurate with the fiscal year of the city government.

SECTION 4.02. Control of expenditures. The mayor shall be responsible for controlling expenditures of the various agencies of the city government so as to accomplish maximum efficiency and economy.

SECTION 4.03. Purchasing. Purchasing for the City of Cowan shall be in accordance with the Municipal Purchasing Law of 1983, compiled in Tennessee Code Annotated, Title 6, Chapter 56, Part 3.

SECTION 4.04. Unauthorized contract or expenditure. Any contract or agreement made in violation of the provisions of this charter or ordinances of the city shall be void, and no expenditure shall be made thereunder. Every officer and employee who shall knowingly make or participate in any such contract or agreement, or authorize or make any expenditure thereunder, and their sureties on their official bonds, and every person who shall knowingly receive such payment, shall be jointly and severally liable to the city for the full amount so paid or received. A violation of this section by any officer or employee shall be cause for his removal.

SECTION 4.05. Annual audit. Within thirty (30) days after the beginning of each fiscal year, the council shall employ an independent, certified public accountant to make an audit of all financial records of the city for that year. The auditor shall perform adequate sampling to determine validity of the records. Each such audit shall include determination of legality of transactions, mathematical accuracy of records, complete accountability, and application of accepted municipal accounting principles. It shall be made in accordance with generally accepted auditing standards and in conformity with generally accepted accounting principles. The audit shall be completed and a report, including a summary for publication, shall be submitted to the council within one hundred eighty (180) days after the end of the fiscal year.

SECTION 4.06. Bonds for public works contracts. Each bid on a contract for any public works or improvement shall be accomplished by a cash or surety company bid bond in the amount of five percent (5%) of the amount bid. Before any contract is awarded, the contractor shall give bond for the faithful performance of the contract, with a surety company authorized to transact business in Tennessee, in an amount equal to one hundred percent (100%) of the contract price. The council may waive these requirements for contracts under five thousand dollars (\$5,000).

SECTION 4.07. Property taxes. All property subject to taxation shall be subject to the property tax levied by the city council. The county assessor of property shall assess all property subject to taxation, except property assessed by the state of Tennessee.

SECTION 4.08. Tax levy. The council shall make a tax levy expressed as a fixed rate per one hundred dollars (\$100) of assessed

valuation not later than July 1 of each year, and said tax levy may be set by the council at a regular meeting or at a meeting specially called for that purpose. In the event of the council's failure to make a tax levy as herein provided, the prior year's tax rate shall continue in effect.

SECTION 4.09. Tax due dates. Property taxes shall be due on October 1 of each year. Property taxes shall become delinquent on March 1 of each year, at which time a penalty prescribed by the general laws of the state of Tennessee shall be added, and thereafter such taxes shall be subject to interest at the rate prescribed by the general laws of the state of Tennessee for each month or fraction thereof until paid. On and after the date when such taxes become delinquent, the tax records of the city shall have the force and effect of a judgment of a court of record.

SECTION 4.10. Delinquent taxes. The council may provide by ordinance for the collection of delinquent taxes by distress warrants issued by the city judge for the sale of goods and chattels to be executed by any police officer of the city under the laws governing execution of such process from a general sessions court; or by the county trustee as provided by general law; by garnishment; by suits in chancery; or by any two (2) or more of the foregoing methods, or by the use of any other available legal processes.

SECTION 4.11. County may collect taxes. The city may contract with the county for the collection of city taxes. The contract may provide for reasonable fees to be paid to the county for this service.

SECTION 4.12. Taxes not to be excused. All officers or employees of the city are prohibited from excusing taxes, penalties, interest, special assessment, or other charges due the city, but errors may be corrected when authorized by the council.

SECTION 4.13. Disbursements by checks. All disbursements, except for any agency of the city administered by a board or commission, shall be made by checks signed by the city treasurer and countersigned by the mayor. The council may, by resolution, designate other officers to sign such checks in the absence or disability of the mayor or city treasurer.

SECTION 4.14. Official depository. The council shall designate an official depository or depositories, for deposit and the council may deem safekeeping of funds of the city, with such collateral security as necessary.

SECTION 4.15. Tax anticipation borrowing. The council may borrow money in anticipation of taxes, for payment of current and necessary expenses.

ARTICLE V INTERGOVERNMENTAL COOPERATION AND CONTRACTING

SECTION 5.01. Intergovernmental cooperation and contracts. In addition to other powers granted in this charter, the city council shall have power to contract and cooperate with any other municipality or other political subdivision of the state, or with an elective or appointive official thereof, or with any duly authorized agency of the federal or state government, for the exercise of any power or function which the city is authorized to undertake by the charter.

SECTION 5.02. Execution of such powers. The city council may exercise the powers conferred in this article by ordinance or resolution setting out the terms to be included in any such contract or cooperative action. The parties to such a contract or cooperative action, or any of them, may acquire, by gift or purchase, or by the power of eminent domain exercised by one or more of the parties, the lands, buildings, and other property necessary or useful for the purposes of the contract or cooperative action, either within or without the corporate limits of one or more of the contracting parties, and shall have the power to hold or acquire such property jointly. The city may provide for the financing of its share or portion of the cost or expenses of such contract or cooperative action in the same manner as if it were acting alone and on its own behalf.

Such contract may also provide for the establishment and selection of a joint commission, officer, or officers to supervise, manage, and have charge of a joint service or project, and may provide for the powers and duties, terms of office, compensation, if any, and other provisions relating to the members of such joint commission, officer, or officers. Such contracts may include and specify terms and provisions relative to the termination of the contract or cooperative action by ordinance or resolution, and the notice, if any, to be given of such termination or cancellation. Such cancellation or termination shall not relieve any party participating in such contract or cooperative action from any obligation or liability for its share of the cost or expense incurred prior to the effective date of any such cancellation or termination.

SECTION 5.03. Immunities and liabilities of officers. All public officers acting under the authority of a contract or undertaking cooperative action under the provisions of this article shall enjoy the same immunities and be subject to the same liabilities as if they were acting entirely within the territorial limits of their respective governmental units.

SECTION 5.04. Handling of funds. All money received pursuant to any such contract or cooperative action, under the provisions of this article, unless otherwise provided by law, shall be deposited and disbursed in accordance with the provisions of such contract or cooperative action.

ARTICLE VI MISCELLANEOUS PROVISIONS

SECTION 6.01. Penalties. The violation of any provision of this charter, for which a penalty is not specifically provided herein, is hereby declared to be a misdemeanor, and persons guilty of such violations shall be fined not more than fifty dollars (\$50.00). Each day the violation continues shall be considered a separate violation.

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 3. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of the City of Cowan not less than sixty (60) days nor more than one hundred twenty (120) days after the passage of this act. Its approval or nonapproval shall be proclaimed by the presiding officer of the City of Cowan and certified to the secretary of state within ten (10) days thereafter.

SECTION 4. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective as provided in Section 3.

PASSED: May 25, 2006


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 27th day of June 2006


PHIL BREDESEN, GOVERNOR